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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/596,052

05/26/2006

Tokunori Kimura

2382-54

1195

23117 7590 10/09/2009
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EXAMINER

RASHID, DAVID

ART UNIT

PAPER NUMBER

2624

MAIL DATE

DELIVERY MODE

10/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/596,052	KIMURA, TOKUNORI	
	Examiner	Art Unit	
	DAVID P. RASHID	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-44 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

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General Information Matter

[1] Please note, the instant Non-Provisional application (10/596,052) under prosecution at the United States Patent and Trademark Office (USPTO), has been assigned to Art Unit 2624. Please ensure, to aid in correlating any papers for 10/596,052, all further correspondence regarding the instant application should be directed to Art Unit 2624.

[2] 10/596,052 has been assigned to David Rashid (Examiner) in the Art Unit 2624 at the USPTO. To aid in correlating any papers for 10/596,052, all further correspondence regarding the instant application should be directed to David Rashid in Art Unit 2624.

Claim Status

[3] Claims 1-44 pending.

Requirement for Information

[4] Applicant and the assignee of this application are required under 37 C.F.R. § 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

M.P.E.P. § 704.11(a) reads, in relevant part:

37 C.F.R. § 1.105(a)(1)(i) lists specific examples of information that may be reasonably required. Other examples, not meant to be exhaustive, of information that may be reasonably required for examination of an application include:

...

(S) Interrogatories or Stipulation

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...
(3) Of precisely which portion(s) of the disclosure provide the written description and enablement support for specific claim element(s)

In response to this requirement, please provide “precisely which portion(s) of the disclosure provide the written description and enablement support for specific claim element(s)” in accordance with M.P.E.P. § 704.11(a)(S)(3) – specifically, Claim 30 cites “a first area”, “a second area”, “a third area”, “a fourth area”, and “synthesizing the data of said second space in said third area”. The examiner requires information as to which specific portions of the disclosure provide the written description and enablement support of these specific claim elements (e.g., all specific figure items and/or specific descriptions in a particular embodiment).

[5] In responding to those requirements that require copies of documents, where the document is bound text or a single article over 50 pages (such as the specification), the requirement may be met by providing copies of those pages that provide the particular subject matter indicated in the requirement, or where such subject matter is not indicated, the subject matter found in applicant’s disclosure.

[6] The fee and certification requirements of 37 C.F.R. § 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 C.F.R. § 1.105 that are included in the applicant’s first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 C.F.R. § 1.105 are subject to the fee and certification requirements of 37 C.F.R. § 1.97.

[7] The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 C.F.R. § 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained may be accepted as a complete reply to the requirement for that item.

Election/Restrictions

Inventions

[8] Restriction to one of the following inventions is required under 35 U.S.C. § 121:

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Invention I. Claims 1, 28, 37-38, 41, and 42 (and any corresponding dependents), drawn to acquiring movement information and correcting on the basis of said movement information, classified in class 382 (Image Analysis), subclass 275 (Artifact Removal or Suppression). See Specification at pp. 62-66 (starting at “Fig. 13 is a flow chart showing. . .”) and Drawings at fig. 13.

Invention II. Claims 30, 36, 39-40, 43, and 44 (and any corresponding dependents), drawn to converting first data to second data, correcting second data, and converting back to first data, classified in class 382 (Image Analysis), subclass 293 (Changing the Image Coordinates). See Specification at 12 (citing “an image data correcting device in the present invention also comprises. . .”) and Drawings at fig. 5.

Combination-Subcombination

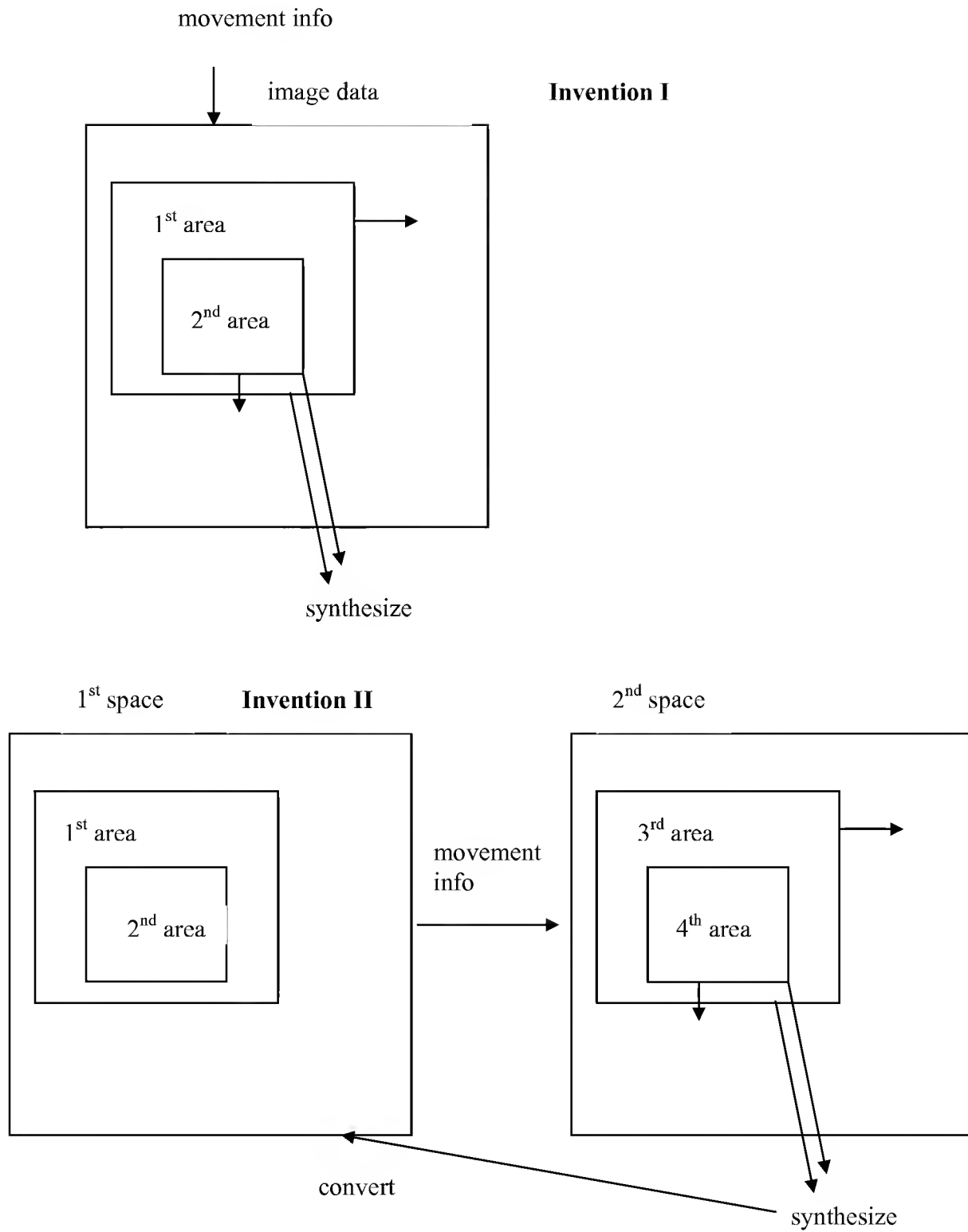
[9] **Inventions II and I** are related as combination and subcombination, respectively.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations. M.P.E.P. § 806.05(c). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination requires any type of correction section for making a correction different from that of the fourth area with respect to the data of the second space in the third area (and not one that requires correction on the basis of movement information). The subcombination has separate utility such as by itself, such as a corrected image on the basis of movement information that is different than the correction of the second space of e.g., Claim 30.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 C.F.R. § 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

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Examiner's Drawing



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[10] Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. § 101 and/or 35 U.S.C. § 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 C.F.R. § 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 C.F.R. § 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either

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instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103(a) of the other invention.

Summary

[11] In summary, Applicant has one of three options:

- (i) Election of subcombination **Invention I**, (Claims 1, 28, 37-38, 41, and 42); or
- (ii) Election of combination **Invention II**, (Claims 30, 36, 39-40, 43, and 44).

Conclusion

[12] Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID P. RASHID whose telephone number is (571)270-1578 and fax number (571)270-2578. The examiner can normally be reached Monday - Friday 7:30 - 17:00 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David P. Rashid/
Examiner, Art Unit 2624

David P Rashid
Examiner
Art Unit 26244